

Department of Defense

245.7307-1

(1) The contractor shall send the CBD notice at least 20 days before bid opening, or date of sale.

(2) CBD notices shall be—

(i) Double spaced and in synopsis form suitable for printing;

(ii) Transmitted by fastest mail available; and

(iii) Contain the following information in the order listed:

(A) Name and address of contractor issuing the invitation for bids;

(B) Name or title, address, and telephone number of the official from whom copies of the sales offering and other information can be obtained;

(C) Description of the property to be sold including, when desired, the total estimated acquisition cost;

(D) The number of the invitation or sale;

(E) The date of the sale or bid opening;

(F) The type of sale, i.e., sealed bid, spot bid, auction; and

(G) The location of the property.

(f) The plant clearance officer or representative will witness the bid opening. Within two working days after bid opening, the contractor will submit to the plant clearance officer two copies of an abstract of all bids, signed by the witnessing Government representative.

245.7304 Informal bid procedures.

(a) Upon approval of the plant clearance officer, the contractor may issue informal invitations to bid (orally, telephonically, or by other informal media), provided—

(1) Maximum practical competition is maintained;

(2) Sources solicited are recorded; and

(3) Informal bids are confirmed in writing.

(b) Bids by the contractor or its employees shall be submitted to the plant clearance officer prior to soliciting bids from other prospective bidders.

245.7305 Sale approval and award.

The plant clearance officer will—

(1) Evaluate bids to establish that the sale price is fair and reasonable, taking into consideration—

(i) Knowledge or tests of the market;

(ii) Current published prices for the property;

(iii) The nature, condition, quantity, and location of the property; and

(iv) Information from the Defense Reutilization and Marketing Service.

(2) Approve award to the responsible bidder whose bid is most advantageous to the Government, price and other factors considered. Award shall not be approved to any bidder who is not eligible to enter into a contract with the DoD due to inclusion on the list of Parties Excluded from Procurement Programs. If a compelling reason exists to award to a bidder on the excluded list, the plant clearance officer shall request approval from the headquarters of the administering activity.

(3) Notify the contractor within five working days of the bidder to whom an award shall be made. The contractor shall make the award, collect the proceeds of the sale, and release the property to the purchaser. The contractor shall provide the plant clearance officer with evidence of delivery reflecting actual quantities released to the purchaser.

245.7306 Sales services.

When sale services are needed, the plant clearance officer will document the reasons in the case file and make arrangements directly with the Defense Reutilization and Marketing Service (DRMS) or General Services Administration (GSA). The arrangements will include a requirement to return all proceeds to the plant clearance officer for crediting in compliance with FAR 45.610-3.

245.7307 Non-competitive sales.

245.7307-1 General.

(a) Non-competitive sales include purchases or retention at less than cost by the contractor.

(b) Non-competitive sales may be made when—

(1) The contracting department/agency or the plant clearance officer determines that this method is essential to expeditious plant clearance;

(2) The sale is otherwise justified on the basis of circumstances listed in 245.7307-2;

(3) The Government's interests are adequately protected; and

245.7307-2

(4) FAR subpart 1.7 requirements are met.

(c) Non-competitive sales shall be at fair and reasonable prices not less than those reasonably expected under competitive sale.

245.7307-2 Justification.

(a) Conditions justifying non-competitive sales are—

(1) Scientific equipment allocated to terminated research and development contracts with educational institutions;

(2) No acceptable bids received under an advertised competitive sale;

(3) Property value so small that anticipated proceeds would not warrant formal competitive sale;

(4) Sale to States, territories, possessions, political subdivisions thereof, or tax-supported agencies therein, and the estimated fair market value of the property and other satisfactory terms of disposal are obtained;

(5) Specialized nature of the property would not create bidder interest;

(6) Removal of the property would reduce its value or result in disproportionate handling expenses; or

(7) Such action is essential to the Government's interests.

(b) The contracting department/agency will provide the contract administration office the sales justification and any special sales provisions when the department/agency decides to sell production equipment to the contractor by non-competitive sale.

245.7308 Antitrust notification.

(a) When contractor inventory with an estimated fair market value of \$3 million or more or any patents, processes, techniques, or inventions, regardless of cost, are sold or otherwise disposed of to private interests notify the Attorney General and the General Services Administration (GSA) of the proposed terms and conditions of disposal. Submit the following information to the Department of Justice and the GSA through the contract administration agency channels. Report Control Symbol DD-ACQ(AR) 1492 applies.

(1) Location and description of property (specify tonnage if scrap);

48 CFR Ch. 2 (10-1-05 Edition)

(2) Proposed sale price (explain if the proposed purchaser was not highest bidder);

(3) Acquisition cost of property;

(4) Manner of sale, indicating whether by—

(i) Sealed bid (specify number of bidders solicited and bids received);

(ii) Auction or spot bid (state how sale was advertised); or

(iii) Negotiation (explain why property was not sold competitively);

(5) Proposed purchaser's name, address, and trade name (if any) under which proposed purchaser is doing business;

(6) If a corporation, provide state and date of incorporation, and name and address of—

(i) Each holder of 25 percent or more of the corporate stock;

(ii) Each subsidiary; and

(iii) Each company under common control with proposed purchaser;

(7) If a partnership, provide—

(i) Name and address of each partner; and

(ii) Other business connections of each partner;

(8) Nature of proposed purchaser's business (indicate whether its scope is local, statewide, regional, or national);

(9) Estimated dollar volume of sales of proposed purchaser (as of latest calendar or fiscal year);

(10) Estimated net worth of proposed purchaser; and

(11) Intended use of property.

(b) Do not dispose of property until the Attorney General determines whether the proposed disposal action would tend to create or maintain a situation inconsistent with the antitrust laws.

(c) If the Attorney General advises that the proposed disposition is inconsistent with the antitrust laws, do not continue with the proposed disposition.

(d) Under non-competitive sales, the prospective purchaser shall be informed that final consummation of the sale is subject to determination by the Attorney General.

(e) Under competitive or non-competitive sales, the purchaser is required